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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE
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12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JAMES BENECKE,

16 Defendant.

17 CASE NO. 2:23-cr-00108-LK

18 ORDER CONTINUING TRIAL
19 AND PRETRIAL MOTIONS
20 DEADLINE

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22 This matter comes before the Court on the Defendant James Benecke's Unopposed Motion
23 to Continue Trial and Pretrial Motions Deadline. Dkt. No. 15. Mr. Benecke moves to continue the
24 trial date from September 25, 2023 to May 20, 2024, and to continue the pretrial motions deadline
25 to March 15, 2024. *Id.* at 1.¹ The Government does not oppose Mr. Benecke's motion. Dkt. No.
26 15 at 1.

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28 ¹ The Court notes that Mr. Benecke filed his motion to continue after the deadline for pretrial motions expired. See
29 Dkt. No. 12 (setting the pretrial motions deadline as August 10, 2023). Although the Court finds good cause to extend
30 the pretrial motions deadlines as requested, it cautions Mr. Benecke that pursuant to Section I.A. of this Court's
31 Standing Order for All Criminal Cases, motions to continue the trial date and pretrial motions deadline must be made
32 prior to the pretrial motions deadline. The Court expects strict compliance with its Standing Order and the applicable
33 laws and rules moving forward, and reminds the parties that "a failure to timely raise a pretrial objection required by
34 law will result in a waiver of that objection." See Standing Order for All Criminal Cases, ¶ 10.

1 On July 5, 2023, a federal grand jury indicted Mr. Benecke with two counts of Abusive
 2 Sexual Contact in violation of 18 U.S.C. § 2244(b) and 49 U.S.C. § 46506(1). Dkt. No. 1 at 1–2.
 3 He pleaded not guilty to both counts and was placed on bond with special conditions following a
 4 hearing before United States Magistrate Judge S. Kate Vaughan. Dkt. Nos. 12, 14.

5 Counsel for Mr. Benecke represents that the Government recently produced discovery in
 6 this case, and though “the discovery at this point is not particularly voluminous, given the nature
 7 of the charges, the defense anticipates a fact intensive investigation that will be time consuming.”
 8 Dkt. No. 15 at 1. Counsel states that additional time will be needed to prepare for trial in this case
 9 given that the investigation may require consulting with experts and gathering information from
 10 out-of-state sources. *Id.* at 1–2. Mr. Benecke has filed a speedy trial waiver “knowingly,
 11 voluntarily, and with advice of counsel” waiving his right to a speedy trial through June 15, 2024.
 12 Dkt. No. 16 at 1.

13 Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by
 14 granting a continuance outweigh the best interest of the public and Mr. Benecke in any speedier
 15 trial. Specifically, the Court finds that failure to grant the requested continuance would likely result
 16 in a miscarriage of justice and would deny defense counsel the reasonable time necessary for
 17 effective preparation, taking into account the exercise of due diligence, due to counsel’s need for
 18 more time to obtain and review discovery, consider pretrial motions and defenses, consult with
 19 Mr. Benecke, and prepare for trial. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The Court finds that the
 20 additional time requested is a reasonable period of delay and will be necessary to provide counsel
 21 and Mr. Benecke reasonable time to accomplish the above tasks.

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Rule 12, absent a showing of good cause, constitutes a waiver[.]” *United States v. Ghanem*, 993 F.3d 1113, 1120 (9th Cir. 2021) (cleaned up).

1 For these reasons, the Court GRANTS Mr. Benecke's motion, Dkt. No. 15, and ORDERS
2 that the trial date for Mr. Benecke shall be continued from September 25, 2023 to May 20, 2024,
3 and that the pretrial motions deadline shall be continued to March 15, 2024. It is further
4 ORDERED that, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B), the period of delay from the date
5 of this Order to the new trial date is EXCLUDED when computing the time within which Mr.
6 Benecke's trial must commence under the Speedy Trial Act.

7 Dated this 15th day of August, 2023.

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10 Lauren King
11 United States District Judge
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